

REMARKS

Claims 43-69 are now pending in the application. Claims 1-42 are canceled. Claims 60-69 are added by this amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

DRAWINGS

In the "Replacement Sheet(s)" Fig. 2 is amended to indicate that the reference number 24 should be 25, as described in the specification. Fig. 4 is amended to place reference numerals 60a and 60b on selected sides, as described in the application as filed; add reference numbers 18a and 18b, as described in the application as filed; and add reference numerals for the seals 80, as described in the application as filed.

SPECIFICATION

The specification has been amended to correct minor typographical errors and clarify reference numerals in the drawings. No new subject matter is added by this amendment.

REJECTION UNDER 35 U.S.C. § 102 AND 103

Claims 39-48 and 51-59 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Megerle (U.S. Pat. No. 6,391,624). Claims 49 and 50 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Megerle (U.S. Pat. No. 6,391,624)

in view of Coyle et al. (U.S. Pat. No. 7,062,982). These rejections are respectfully traversed.

Initially, Applicants have amended the claims to cancel Claims 1-42. Therefore, the rejections thereto, Applicant submits, should be withdrawn.

Megerle is directed to a highly sensitive biological agent probe that includes a plurality of nucleotides attached to an electrode 30 within a sensor cell. See, Megerle col. 9, lines 64-66. The electrode can be energized or a current can be read to determine the presence of the selected agent that may be interconnected with one of the nucleotides attached on the electrode.

Coyle et al. is directed to a system for collecting and separating aerosol particles of an air sample. A corona charge can be used to direct aerosol particles into a stream of liquid. See Coyle et al., Abstract.

Contrary to either Megerle or Coyle et al., either alone or in combination, independent Claim 43 recites "forcing the formation of a collection of at least one of the interacted tag and the uninteracted tag". Applicant respectfully submits that Megerle does not anticipate or render obvious forcing the formation of the collection of at least one of an interacted tag and an uninteracted tag. Although Megerle describes a probe that can include a nucleotide interconnected therewith, Megerle does not describe the forcing of a formation of a collection. The probe of Megerle is a chip to which the nucleotides are fixed. Thus, no collection can be made of interacted or uninteracted tags.

Independent Claim 43 further recites "detecting the presence of the collection of at least one of the interacted tag and the uninteracted tag". As discussed above,

Megerle simply describes detecting a current based on an interaction of a nucleotide on the probe 30 of Megerle. Therefore, Megerle cannot detect the presence of the collection as recited in independent Claim 43.

Therefore, independent Claim 43, and each of the claims that depend directly or indirectly therefrom, are in condition for allowance.

Further, Applicant respectfully submits that claims that depend directly or indirectly from independent Claim 43 include patentable subject matter. For example, dependent Claim 48 recites "separating said interacted tag from said uninteracted tag using a mass differential between said interacted tag and said uninteracted tag." As discussed above, Megerle simply describes a probe with nucleotide interacted or contacted therewith. Megerle does not anticipate or render obvious separating an interacted tag from an uninteracted tag in any manner, especially using mass differential. For similar reasons, Claims 49 and 50 are also not anticipated or rendered obvious by Megerle. Even in combination with Coyle et al., which describes using a corona charge to direct particles to a fluid stream, a dielectric constant differential is not used to separate an interacted tag from an uninteracted tag.

Dependent Claim 52 recites "exciting said tag to force said tag to form an emission energy; and detecting the emission energy from the excited tag." As discussed above, Megerle simply describes providing a current through the probe and does not disclose exciting a tag. Therefore, dependent Claim 52 is not anticipated or rendered obvious by Megerle, either alone or in combination.

Also, dependent Claim 59 recites "inducing an emission of a first wave length from at least one of said interacted tag and said uninteracted tag with a second wave

length; wherein said first wave length is less than said second wave length.” Applicant respectfully submits that such an induction and emission is not anticipated or rendered obvious by Megerle, either alone or in combination.

Applicant respectfully submits that each of the original pending claims are in condition for allowance in light of Megerle and Coyle et al., either alone or in combination. Therefore, Applicant respectfully requests that each of the presently outstanding rejections be withdrawn.

NEW CLAIMS

Each of the claims that are added by this amendment are within the scope of the previously elected invention and Applicant submits each is within the scope of the originally elected claims and the search made of the original claims. Therefore, Applicant respectfully submits that each of the newly added claims should be examined with the current application.

Further, support for the newly added claims can be found throughout the application as filed, including the original claims and paragraphs 35-50 and 74.

Further, Applicant respectfully submits that each of the newly added claims are in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is

believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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